

COOLEY GODWARD KRONISH LLP
STEVEN L. FRIEDLANDER (154146) (friedlanders@cooley.com)
BENJAMIN KLEINE (257225) (bkleine@cooley.com)
LAURA A. TERLOUW (260708) (lterlouw@cooley.com)
101 California Street, 5th Floor
San Francisco, CA 94111-5800
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

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ATTORNEYS FOR DEFENDANTS
SYMYX TECHNOLOGIES, INC. AND ELSEVIER INC.

LEVINE & BAKER LLP
RICHARD E. LEVINE (88729) (rlevine@levinebakerlaw.com)
One Maritime Plaza, Suite 400
San Francisco, CA 94111
Telephone: (415) 391-8177
Facsimile: (415) 391-8488

ATTORNEYS FOR PLAINTIFFS
ROBERT OLSZEWSKI, SARA BERTSCH, JACQUELINE MACIA, PHILIP
McHALE, AND RUSSELL BLACKADAR

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT OLSZEWSKI, SARA BERTSCH,
JACQUELINE MACIA, PHILIP McHALE,
and RUSSELL BLACKADAR, individuals,

Plaintiffs,

v.

SYMYX TECHNOLOGIES, INC., and
ELSEVIER, INC.,
Corporations,

Defendants.

Civil Action No. CV 08 3657 HRL

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE CMC AND
ADR CERTIFICATION DATES**

Pursuant to United States District Court for the Northern District of California Civil L.R.
6-2(a), plaintiffs Robert Olszewski, Sara Bertsch, Jacqueline Macia, Philip McHale, and Russell
Blackadar (collectively, "Plaintiffs") and defendants Symyx Technologies, Inc. ("Symyx") and
Elsevier Inc. ("Elsevier"), by and through their respective counsel, hereby submit the following
joint stipulation:

1. Pursuant to the Court's April 16, 2009 order, the case management conference in this case is currently scheduled for June 16, 2009.

2. Pursuant to the Court's July 30, 2008 order, the parties' deadline to file ADR certifications and either a stipulation selecting an ADR process or a notice of need for ADR phone conference was set as November 4, 2008. Because defendants were not served with a summons and complaint until early-January 2009, this date passed without compliance.

3. On June 2, 2009, the Court held a hearing on defendants' motions to dismiss and took the motions under submission. Counsel for plaintiffs and defendants agree that having a ruling from the Court on the motions to dismiss will greatly inform (a) the parties' discussions of the scope and timing of discovery pursuant to Rule 26(f), (b) the preparation of the parties' Rule 26(f) report, (c) the discussions to be had with the Court at the case management conference, and (d) discussions between the parties concerning the potential merits of ADR.

Therefore, the parties hereby request and stipulate:

A) That the Court continue the case management conference until a date that is six weeks after the Court's decision on defendants' motions to dismiss; and

B) That the Court postpone the deadline for the parties to file their ADR Certifications and either (i) a Stipulation and [Proposed] Order Selecting an ADR Process or (ii) a Notice of Need for ADR Phone Conference, until a date that is one week after the Court's decision on defendants' motions to dismiss.

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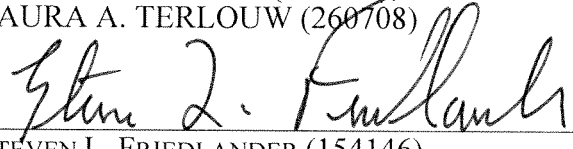
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1 **IT IS SO STIPULATED:**

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11 RUSSELL BLACKADAR

11 Dated: June 4, 2009

Dated: June 4, 2009

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13 **IT IS SO ORDERED. The Court will issue an order scheduling the continued case**
14 **management conference date and the deadline for filing ADR-related documents in this**
15 **matter upon issuing its written ruling on defendants' motions to dismiss.**

15 Dated: June 5, 2009

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17 Honorable Howard R. Lloyd
18 United States District Court Magistrate Judge
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